

## REMARKS

Applicant respectfully requests reconsideration of the Office action dated December 2, 2003 in view of the foregoing amendments and the following remarks.

### *Claim 1 and its Dependent Claims*

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Jacobsen et al. (U.S. Patent No. 5,833,632), March et al. (U.S. Patent No. 5,997,525), and Aldrich et al. (U.S. Patent No. 5,489,269); and under 35 U.S.C. § 102(e) as being anticipated by Paskar (U.S. Patent No. 6,623,449) and Goll (U.S. Patent No. 6,344,027). Claims 2-7, 9-18, and 33, which all depend directly or indirectly from claim 1, stand variously rejected under 35 U.S.C. § 102(b) and/or (e) based on the above five references. Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over any of the above five references. As explained below, Applicant disagrees with the rejections but has nonetheless made certain claim amendments to clarify what Applicant regards as his invention.

Claim 1 as amended calls for a rigid end effector including a rigid interior wall that defines a rigid fluid channel. As stated in page 12 of the specification, a rigid configuration is desirable for "some laparoscopic and thorascopic surgical procedures," such as for ablating a beating heart.

Referring first to the Jacobsen patent, the device disclosed in Jacobsen does not have a rigid end effector that includes a rigid interior wall defining a rigid fluid channel, as recited in Applicant's claim 1. Instead, the only structure that may be considered an end effector is tubular guide wire 320 shown in Fig. 1. As described at col. 2, lines 56-67

and col. 3, lines 1-13, the tubular guide wire 320 is made of “flexible materials,” so that the curvature of guide wire 32 may be changed using wire mandrel 333. Accordingly, Jacobsen does not disclose an end effector including a rigid interior wall that defines a rigid fluid channel, as described and claimed in the present application.

Additionally, Jacobsen does not disclose an ejection mechanism, which is called for in amended claim 1. Rather, as described at col. 4, lines 62-67 and col. 5, line 1, the Jacobsen device merely allows the medication “to leak from the bore of the guide wire into the vasculature passageway.”

Referring now to the March patent, March does not disclose a rigid end effector that includes a rigid interior wall defining a rigid fluid channel, as described and claimed in the present application. Rather, as shown in the various figures and described at col. 4, lines 31-36 of the March patent, the March device discloses a catheter 10 made of flexible materials to “facilitate introduction of the distal end of catheter 10 into the patient’s left ventricle.”

Regarding Aldrich, that patent does not disclose a rigid end effector that includes a rigid interior wall defining a rigid fluid channel, as described and claimed in the present application. Rather, as shown in Figs. 1 and 5 and described at col. 4, lines 2-28 of the Aldrich patent, the Aldrich device discloses a catheter 10 that includes “a flexible elongated member 11 and a lockable sleeve 26 positioned at the proximal end thereof, both formed from flexible plastic material tubes of different diameters.”

Additionally, Aldrich does not disclose an ejection mechanism, which is called for in amended claim 1. Rather, as described at col. 1, lines 11-13, the Aldrich device is used

as a drainage catheter “introduced to a drainage site such as an abscess or a cavity in the biliary, nephrostomy, or urinary system.”

Referring now to the Paskar patent, Paskar does not disclose, teach, or suggest a rigid end effector that includes a rigid interior wall defining a rigid fluid channel, as described and claimed in the present application. Rather, as shown in the various figures and described at col. 5, lines 46-57 of the Paskar patent, the Paskar device has an inner catheter 35 made of flexible materials so that it may be “custom shaped or formed while in the patient.”

Regarding Goll, that patent does not disclose, teach, or suggest a rigid end effector that includes a rigid interior wall defining a rigid fluid channel, as described and claimed in the present application. Rather, as shown in Fig. 1 and described at col. 4, lines 14-25 of the Goll patent, the Goll device has an elongate shaft 14 with a flexibility “suitable for navigation from a remote access site to the treatment site within the human body.”

As discussed above, the cited references do not disclose, teach, or suggest a device as claimed in amended claim 1. Claims 2-18 and 33 contain further limitations that distinguish the cited references. Accordingly, amended claim 1 and its dependent claims patentably distinguish the cited art, and Applicant respectfully requests that the rejections of claims 1-18 and 33 under 35 U.S.C. §§ 102 and 103 be withdrawn.

#### *Claim 19 and its Dependent Claims*

Claim 19 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Jacobsen et al. (U.S. Patent No. 5,833,632), March et al. (U.S. Patent No. 5,997,525), and Aldrich et al. (U.S. Patent No. 5,489,269); and under 35 U.S.C. § 102(e) as being

anticipated by Paskar (U.S. Patent No. 6,623,449) and Goll (U.S. Patent No. 6,344,027). Claims 20-25, which all depend directly or indirectly from claim 19, stand variously rejected under 35 U.S.C. § 102(b) and/or (e) based on the above five references. Applicant disagrees with the rejections and has made certain claim amendments to clarify what Applicant regards as the invention. For reasons similar to those stated above, Applicant respectfully submits that claims 19-25 patentably distinguish the cited references, and requests withdrawal of the rejections of those claims.

#### Conclusion

Applicant believes that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, Applicant respectfully requests that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

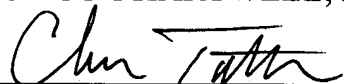
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